

**REMARKS**

Favorable consideration and allowance are requested for claims 1-3, 6-10, 17, 22, and 24-35 in view of the following remarks.

**Status of the Application**

Claims 1-3, 6-10, 17, 22, and 24-35 are pending in this application. Claims 1-4, 11, 12, 19-21, and 23 were rejected under 35 U.S.C. § 102(b) as being anticipated by Odom *et al.*, Cisco VoIP Call Admission Control (the “Odom reference”). Claims 5-8, 10, 13-16, and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the Odom reference in view of Elek *et al.*, Admission Control Based on End-to-end Measurements (the “Elek reference”). Claims 1, 3, 6-10, 17, and 22 have been amended. Claims 4, 5, 11-16, 18-21, and 23 have been canceled. Claims 24-35 have been added.

**Rejection under 35 U.S.C. § 102(b)**

According to the Office Action, the Odom reference anticipates claims 1-4, 11, 12, 19-21, and 23. In light of the amendment to claim 1 and the cancellation of claims 11, 12, 19-21, and 23, Applicants respectfully submit that this rejection is moot.

**Rejection under 35 U.S.C. § 103(a)**

According to the Office Action, the combination of the Odom and Elek references renders claims 5-8, 10, 13-16, and 18 obvious. In light of the cancellation of claims 13-16 and 18, Applicants respectfully submit that the rejection of those claims is moot.

With respect to the rejection of claims 5-8 and 10, Applicants will address claim 1, as amended, as it additionally recites “wherein the burst of trial data is transmitted at a higher data rate than the packets to be transmitted.” In response, Applicants respectfully submit that the Elek reference does not deal with setting up a new call, but with an existing transmission. Further, the Elek reference neither discloses nor suggests sending a burst of trial data at a higher bit rate than the maximum intended bit rate of transmission. Rather, the Elek reference discloses sending data at the highest intended rate.

In contrast, the present invention is directed to separating the behavior of the system in response to a new call from the response to existing calls. The specification discloses that:

This “bandwidth probe” might use four or five ping packets of the same size and priority as the voice packets that will be used when the call is in voice but more closely spaced in time. . . . This call admission mechanism is more cautious than the first mechanism so that existing calls continue in the face of slight congestion but new calls are not admitted.

Specification at p. 8, lines 16-18, and p. 8, line 32 to p. 9, line 3.

In other words, different standards are applied to new calls in relation to existing calls. Although the Elek reference discloses testing the response of the system, it does not send a probe at a bit rate above the maximum intended bit rate. Therefore, the combination of the Odom and Elek references neither discloses nor suggests the subject matter of claim 1, as amended, and, as a result, this claim is in condition for allowance. As each of claims 2, 3, 6-8, and 10 depends directly or indirectly from claim 1, these claims are also in condition for allowance.

Claims 9, 17, 22, and 24-35

Applicants gratefully acknowledge the indication of allowable subject matter for claims 9, 17, and 22. These claims have been rewritten into independent form and, therefore, are in condition for allowance.

Applicants have added new claims 24-35 to the application. Applicants respectfully submit that these claims are also allowable.

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If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket #038665.56184US).

Respectfully submitted,

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